

Sixth Appellate District

San Jose, California

TUESDAY, FEBRUARY 17, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Beth Miller, Deputy Clerk.

H029767 STYLES, et al. v. MUMBERT

Cause called and argued by Mark Kane appearing for Appellant. Cause ordered submitted.

H033053 PEOPLE v. HALPIN

Cause called and argued by Joyce E. Angell, Deputy Attorney General, appearing for Appellant and by Lori A. Quick appearing for Respondent. Cause ordered submitted.

H032842 In re LAZOR on Habeas Corpus

Cause called and argued by Denise Yates, Deputy Attorney General, appearing for Appellant and by Steven Charles Sanders appearing for Respondent. Cause ordered submitted.

H031422 ONE BEACON INSURANCE GROUP v. CENTURY SURETY COMPANY, et al.

Cause called and argued by Hugh Douglas Galt appearing for Appellants and by Ellyn E. Nesbit appearing for Respondent. Cause ordered submitted.

H033103 MARQUEZ, et al. v. NOVELLUS SYSTEMS, INC.

Cause called and argued by Kerri A. Johnson appearing for Appellants and by Sharon Hightower appearing for Respondent. Cause ordered submitted.

Court is adjourned.

H031572 CHOI v. KIM, et al.

The appeal is dismissed. (not published)
(Mihara, J.; We concur: Elia, Acting P.J., McAdams, J.)
Filed February 17, 2009

Sixth Appellate District

San Jose, California

Tuesday, February 17, 2009 (continued)

H031740 COUNTY OF SANTA CLARA et al. v. SUPERIOR COURT
H031741 STATE OF CALIFORNIA et al. v. SUPERIOR COURT
H031897 CITY OF CAMPBELL et al. v. SUPERIOR COURT
H031898 CITY OF SAN JOSE et al. v. SUPERIOR COURT
H031920 CITY OF PALO ALTO et al. v. SUPERIOR COURT
H031952 TOWN OF LOS GATOS et al. v. SUPERIOR COURT

Our temporary stay of the superior court's proceedings is hereby vacated, and the petitions are denied. The Naymarks shall recover their costs in these original proceedings (published) (Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed February 17, 2009

H032396 FALCONE v. FYKE

By the Court:

Appellant's motion to vacate submission is granted. The submission order dated February 5, 2009 is hereby vacated. The cause will be resubmitted upon completion of oral argument at a date and time to be determined. On the court's own motion, its case numbers H032396 and H032482, Falcone v. Fyke, will be considered together for oral argument and decision.

Dated: February 17, 2009 Premo, Acting P.J.

WEDNESDAY, FEBRUARY 18, 2009

H031721 SUNNYVALE UNIFIED SCHOOL DISTRICT v. JACOBS et al.

The order vacating the award is affirmed. The parties shall bear their own costs on appeal. (published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed February 18, 2009

H033406 PEOPLE v. TORRES

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed February 18, 2009

H032409 PEOPLE v. MURILLO

The judgment is reversed. The matter is remanded to the trial court for reconsideration of whether to impose a medication requirement as a condition of probation. (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed February 18, 2009

Sixth Appellate District

San Jose, California

Wednesday, February 18, 2009 (continued)

H032441 PEOPLE v. TORRES

In Santa Clara County Superior Court case no. CC591335, the trial court is directed to modify the abstract of judgment by striking one of the five-year Penal Code section 667, subdivision (a), enhancements, thus reducing the term to seven years, eight months. In Santa Clara County Superior Court case no. CC629776 the trial court is directed to modify the abstract of judgment by striking one of the five-year Penal Code section 667, subdivision (a), enhancements, thus reducing the determinate part of the term imposed to 19 years. The trial court is directed to modify the judgments to reflect a total restitution fine of \$10,000 and total suspended parole revocation fine of \$10,000. The superior court shall forward the amended abstracts of judgment to the Department of Corrections and Rehabilitation. As modified, the judgments are affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed February 18, 2009

THURSDAY, FEBRUARY 19, 2009

H032943 PEOPLE v. PORTILLO

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed February 19, 2009

H031127 ALFARO, et al. v. COMMUNITY HOUSING IMPROVEMENT SYSTEM & PLANNING ASSOCIATION, Inc., et al.

The appeal is dismissed as to the County of Monterey. The judgment of dismissal is reversed as to South County. The order of November 9, 2006, sustaining the demurrer by CHISPA to the second amended complaint is upheld. The order sustaining the demurrer of South County to the second amended complaint is overruled only as the third, fifth, seventh, ninth and tenth causes of action alleged by plaintiffs Jose and Carmen Cervantes, Fermin and Rosario Chavarin, Juventino and Socorro Chavez, Roberto Alfaro, Jose and Rebecca Pineda, Tomas and Patricia Alfaro, Manuel Castro, Octavio Martinez, Erendira Sanchez, Hector Mendoza, and Herlinda Rodriguez. The parties will bear their own costs on appeal. (published)
(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)
Filed February 19, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Elia, J.; Rushing, P.J.; Premo, J.; and LaNae Brooks, Deputy Clerk.

Sixth Appellate District

San Jose, California

Thursday, February 19, 2009 (continued)

H032314 PEOPLE v. MENDOZA

Cause called and argued by Pamela L. Ham, Deputy Attorney General, appearing for Appellant and by Gerald A. Clausen appearing for Respondent. Cause ordered submitted.

H031753 PEOPLE v. PEREZ

Cause called and argued by Jeremy D. Blank appearing for Appellant and by Brent Wilner, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H031792 In re Marriage of RICHARD FALCONE v. KATHEY FYKE

Cause called and argued by Kathey Fyke, appellant appearing in propria persona and by Bernard N. Wolf appearing for Respondent. Cause ordered submitted.

Court is adjourned.

H031816 BENEFIELD et al. v. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

Filed order publishing opinion.

(Mihara, J., Bamattre-Manoukian, Acting P.J., McAdams, J.)

H032324 PEOPLE v. ROGERS

The judgment is affirmed. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed February 19, 2009

The following case is submitted this date:

H031458 FALCONE v. FYKE

H032684 FARFAN v. OTTLER, et al.

Appellant's motion to vacate dismissal is granted, and the appeal is restored to active status. Time to file appellant's opening brief is extended to 5 days from the date of this order.

Dated February 19, 2009

Rushing, P.J.

FRIDAY, FEBRUARY 20, 2009

The following case is submitted this date:

H032830 OETIKER PARTNERS, L.P., et al. v. RODRIGUEZ, et al.

H032175 PEOPLE v. GRANADOS

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed February 20, 2009

Sixth Appellate District

San Jose, California

Friday, February 20, 2009 (continued)

H032558 PEOPLE v. INNIS

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed February 20, 2009